

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 9178	DATE	3/11/2003
CASE TITLE	Latroy Hubbard vs. Certified Grocers Midwest, Inc.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

--

## DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [ use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> Local Rule 41.1 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Memorandum Order. Affirmative Defense 1 is stricken as a matter of law.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.	<div style="text-align: center;"> U.S. DISTRICT COURT  CLEARED  03 MAR 12 PM 4:09  FILED 03-03-10  Date/time received in  central Clerk's Office </div>	number of notices	Document Number  5
<input type="checkbox"/>	No notices required.		MAR 13 2003 date docketed	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		<i>Cym</i> docketing deputy initials	
<input type="checkbox"/>	Notified counsel by telephone.		3/12/2003 date mailed notice	
<input type="checkbox"/>	Docketing to mail notices.		SN	
<input type="checkbox"/>	Mail AO 450 form.		mailing deputy initials	
<input type="checkbox"/>	Copy to judge/magistrate judge.			
SN	courtroom deputy's initials			

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**DOCKETED**

MAR 13 2003

LATROY HUBBARD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 02 C 9178
	)	
CERTIFIED GROCERS MIDWEST, INC.,	)	
	)	
Defendant.	)	

MEMORANDUM ORDER

In response to this Court's February 26, 2003 memorandum order ("Order"), counsel for Certified Grocers Midwest, Inc. ("Certified Grocers") have filed its Amended Answer and Affirmative Defenses ("ADs") to the employment discrimination action brought against Certified Grocers by its ex-employee Latroy Hubbard. That new pleading has satisfactorily addressed each of the matters referred to in the Order, in particular by sharpening up the AD 1 assertion that part of Hubbard's allegations are assertedly beyond the scope of the charge that he had filed with EEOC.

But having said that, this Court strikes AD 1 as a substantive matter. It has long been the rule in this Circuit that, as recently reconfirmed in Peters v. Renaissance Hotel Operating Co., 307 F.3d 535, 550 (7<sup>th</sup> Cir. 2002) (citations and internal quotation marks omitted):

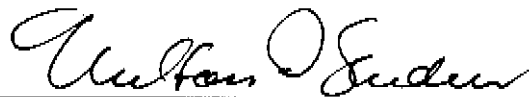
Generally a plaintiff may not bring claims under Title VII that were not originally brought among the charges to the EEOC. This rule both afford[s] an opportunity for the EEOC to settle the dispute between the employee

and employer and put[s] the employer on notice of the charge against it. Nevertheless, this court has allowed plaintiffs to proceed on claims not explicitly set forth in a charge of discrimination if the claim is like or reasonably related to the EEOC charges and the claim in the complaint reasonably [could] be expected to grow out of an EEOC investigation of the charge[ ]. For purposes of this standard, [t]he claims are not alike or reasonably related unless there is a factual relationship between them. This means that the EEOC charge and the complaint must, at minimum, describe the same conduct and implicate the same individuals.

To the same effect, the Court of Appeals has commented from time to time on the needless waste involved if an employee had to be sent back to EEOC to file an additional charge of discrimination in such circumstances.

In this instance Hubbard's June 21, 2002 EEOC charge (Complaint Ex. B) followed his recitation of assertedly discriminatory treatment on the part of Certified Grocers with this statement:

On June 9, 2002 I was threatened with termination. According to Complaint ¶¶17-20, within less than two months thereafter, and while the investigation of that charge remained pending, Hubbard was indeed terminated. That squarely fits the quoted language from Peters (and the uniform holdings of other Seventh Circuit cases), and so AD 1 is stricken as a matter of law.



---

Milton I. Shadur  
Senior United States District Judge

Date: March 11, 2003